

### **REMARKS**

Responsive to the Office Action mailed August 7, 2006, Applicants provide the following. Claims 2, 15, 17 and 20 were previously canceled. New claims 22-24 have been added. Claims 1, 12 and 16 have been amended. Thus, twenty (20) claims remain pending in the application: Claims 1, 3-14, 16, 18, 19 and 21-24. Reconsideration of claims 1, 3-14, 16, 18, 19 and 21-24 in view of the amendments above and the remarks below is respectfully requested.

By way of this amendment, Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

### **Claim Rejections - 35 U.S.C. §103**

1. Claims 1, 4-8, 16, 19 and 21 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 6,701,441 (Balasubramaniam et al.) in view of U.S. Patent Publication No 2004/0236843 (Wing et al.) and in further view of U.S. Patent No. 6,397,245 (Johnson). Applicants respectfully traverse these rejections.

The applied combination fails to teach each limitation as recited in at least amended claim 1, and thus, fails to establish a prime facie case of obviousness at least with respect to amended claim 1. More specifically, amended claim 1 recites in part:

receiving a plurality of scripts for diagnosing the electronic device ...;  
determining whether the plurality of scripts were previously received;  
storing those scripts that were not previously received;  
determining whether the scripts previously received are updated; and  
storing the scripts previously received if they are updated....

The Balasubramaniam, Wing and Johnson references fail to teach at least determining whether the plurality of scripts were previously received and whether the scripts previously received are updated as recited in claim 1. None of the applied references teach or suggest making such a determination. Instead, all of the applied references describe that the scripts received are simply downloaded or executed without making any determination as to whether they are previously received or whether they are updated.

Additionally, the Balasubramaniam reference teaches away from making such determination as recited in claim 1. For example, Balasubramaniam describes maintaining “an application knowledge base 128, which is a repository of data pertaining to the various software that are delivered to the client computer 104 by the server-side engines 150... Before the server-side engines 150 download software to the user computer 104, they consult with knowledge base and determine that an upgrade is needed for the user computer 104” (Balasubramaniam, col 9, ln 55-67). As such, only scripts and upgrades that are needed at the client device are sent, and thus, no scripts that were previously received are sent to the client device by the Balasubramaniam system. Therefore, the Balasubramaniam patent teaches away from making a determination as recited at least in claim 1 at the diagnostic controller (at the client device) because such evaluation would be an extraneous process wasting resources and could potentially inadvertently override the server preventing the server from implementing needed operation. As such, the applied combination of references fails to teach or suggest all the claim limitations of amended claim 1, and thus, claim 1 is not obvious in view of the applied references.

Similarly, claim 16 recites in part “means for determining whether the plurality of scripts were previously received and whether the scripts previously received are updated.” As such, amended claim 16 is also not obvious in view of the Balasubramaniam, Wing and Johnson combination at least for the reasons described with respect to claim 1, and therefore, is in condition for allowance.

Further, dependent claims 4-8 that depend from amended claim 1, and dependent claims 19 and 21 that depend from claim 16 are also not obvious over the applied references at least due to their dependence on allowable claims 1 and 16.

Additionally, with respect to at least claim 4, the combination of Balasubramaniam, Wing and Johnson fails to teach at least remotely receiving the diagnostic controller over the distributed network prior to the identifying the electronic device. The office action suggests that Balasubramaniam describes identifying the electronic device as recited through the “registering” described in Balasubramaniam. However, the registering of the user computer occurs before scripts with ActiveX controls, which the office action equates with the controller, are received by the user computer (see FIG. 4). More specifically, the

Balasubramaniam patent describes receiving a registration from a user with respect to steps 402-404 of FIG. 4, stating that “[t]his process, of authenticating the user computer 104 and creating a secured connection between the two computers 100 and 104, is called ‘registering’ the user computer 104” (col. 10, lns. 54-57, emphasis added). The Balasubramaniam patent continues describing the process following the “registration” of the user such that Active X controls are sent to the user computer in step 408 of FIG. 4. As such, the Balasubramaniam patent does not teach at least “remotely receiving the diagnostic controller over the distributed network prior to the identifying the electronic device” as recited in claim 4. The Wing reference also fails to teach “remotely receiving the diagnostic controller over the distributed network prior to the identifying the electronic device”. Thus, claim 4 is not obvious in view of the combination of Balasubramaniam and Wing references as the combination fails to teach each limitation as recited, and thus, claim 4 is in condition for allowance.

The office action on page 2, paragraph 4 in maintaining the rejection of claim 4 and in response to Applicants’ previous arguments suggests that Applicants’ specification and claims (citing claim 5) disclose that “identifying” a electronic device can merely be accessing the electronic device, and continues suggesting that “[t]he purpose of the identifying step is to determine appropriate scripts to be sent to the device” and cites to Applicants’ specification at pg. 13, lns. 1-16 (Office Action, pg. 2). However, claim 5 recites “wherein the identifying the electronic device includes electronically accessing the electronic device and receiving an identity of the electronic device from the electronic device” (emphasis added). As such, claim 5, does not support the contention that the “identifying” an electronic device can merely be accessing the electronic device, as claim 5 further provides that identification is determined based on a received identity of the electronic device in addition to accessing the electronic device.

Further, page 13, lines 1-16 of the specification recites in part “[i]f a confirmation is received, the process proceeds to step 414 where a script is communicated to identify the electronic device or determine the electronic device type...” (pg. 13, lines 4-6). As such, the portion of the specification cited by the office action clearly states that identifying the electronic device is not simply based on accessing the device but instead is based on forwarding a script that is implemented to identify the device. The office action’s support for the rejection of claim

4 is in error as the cited claim 5 and portion of the specification of the pending application do not provide for the mere accessing of the device as suggested in the office action. Applicants respectfully submit that the applied Balasubramaniam, Wing and Johnson references do not teach or suggest “remotely receiving the diagnostic controller over the distributed network prior to the identifying the electronic device” as recited in claim 4, and the subject application does not describe identifying simply by accessing. Thus, claim 4 is patentable over the applied combination.

The office action further suggests in rejecting claim 4 that Wing teaches a system for remotely diagnosing an electronic device where a diagnostic controller is remotely received over the distributed network prior to the identifying of the electronic device. Specifically, the office action states that “Wing discloses sending a first script to the device that is solely responsible for ‘identifying’ a device by testing for, among other thing, the device’s configuration” (Office Action, pg. 2, citing Wing Fig. 8, para 0085, and claim 20). However, Wing instead states that “as a part of establishing a connection with the server the user may be required to register with the server” and further states that registration includes “the provision of information identifying the user to the server” (Wing, [0080]). The Wing reference goes on to describe that “[f]ollowing the completion of registration, the client application 400 is downloaded to and installed in the client computer 108,” where “[a] first command, script or set of scripts 424 may be downloaded with the client application 400” (Wing, [0081]). As such, the Wing reference describes a system in which the Client Application, which the office action equates with the diagnostic controller, is only downloaded “following the completion of registration,” wherein registration includes “the provision of information identifying the user to the server” (Wing, [0080]).

Furthermore, even if we assume arguendo that the scripts can be equated with identifying as recited in claim 4, the Wing reference, specifically states that “[a] first command, script or set of scripts 424 may be downloaded with the client application 400” (Wing, [0081], emphasis added). As such, Wing teaches away from downloading the diagnostic controller prior to downloading the scripts because the scripts may be downloaded at the same time as the “client application 400”. Therefore, Wing does not teach at least “remotely receiving the diagnostic

controller over the distributed network prior to the identifying the electronic device” as recited in claim 4.

Moreover, the office action suggests that “[u]nder a second interpretation, Wing also discloses identifying a device through use of an identifier” (Office Action, pg. 3, citing para. 0010 and 0153 of Wing). The office action equates the Wing “identifier” with the identifying as recited in claim 4, and states that an “application (diagnostic controller) is first downloaded to the client; the client application then ‘identifies’ the device by transmitting the identifier of the device to the server in order to insure that the results of the diagnostics are properly coordinated to the device [0153-0155]” (Office Action, pg. 3). However, the Wing reference specifically states that the “identifier” is “assigned to that client computer 108 by the server application 224 when the user registered with the server application 224” (Wing, [0085]). As noted above, Wing specifically states that the “client application 400” is downloaded “following the completion of registration” (Wing, [0081]). As such, the identifier which the office action equates with “identifying” as recited is generated before downloading the “client application” which the office action equates with the diagnostic controller recited in claim 4. As such, the Wing reference fails to teach or suggest every limitation as recited in claim 4.

Additionally, the Johnson patent also fails to teach or suggest at least remotely receiving the diagnostic controller over the distributed network prior to the identifying the electronic device. As such the combination of the applied references fails to teach or suggest all limitations as recited in claim 4, and thus, claim 4 is in condition for allowance.

2. Claims 3 and 18 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the Balasubramaniam patent in view of the Wing reference in further view of U.S. Patent No. 6,880,083 (Korn). Applicants respectfully traverse these rejections.

Dependent claim 3 depends from amended claim 1, and dependent claim 18 depends from claim 16. As such claims 3 and 18 are not obvious over the combination of the Wing and Balasubramaniam references at least due to their dependence on allowable claims 1 and 16. Further, Korn also fails to teach or suggest at least determining whether the plurality of scripts were previously received and whether the scripts previously received are updated as

recited in amended claims 1 and 16. As such, claims 3 and 18 are not obvious in view of the Balasubramaniam, Wing and Johnson references due at least to their dependency on patentable claims 1 and 16.

3. Claims 9-14 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the Balasubramaniam patent in view of the Wing reference in further view of U.S. Publication No. 2002/0165952 (Sewell). Applicants respectfully traverse these rejections.

The combination of the Balasubramaniam, Wing and Swell references fails to establish a *prime facie* case of obviousness at least with regard to amended claims 1 and 12, because the combination fails to teach each limitation as recited in claims 1 and 12 and would not result in a method or system as recited in claims 1 and 12.

Claims 9-11 depend from claim 1. As described above the Balasubramaniam and Wing reference fails to teach each limitation as recited in claim 1. The Swell reference also fails to teach at least determining whether the scripts received were previously received and whether the previously received scripts are updated. As such, claim 9-11 are not obvious in view of the Balasubramaniam, Wing, and Swell references, and thus, are in condition for allowance.

Claim 12 recites in part “the remote diagnostic controller receives the web page and the at least one script ... the remote diagnostic controller is further configured to receive a first reply from the electronic device, to determine at least a second diagnostic instruction based on the first reply and to forward at least the second instruction to the electronic device.” The office action mailed August 7, 2006 specifically states that the Balasubramaniam patent does not teach receiving a first reply or submitting further instructions based on previous replies and relies on the Wing reference (see pg. 9 of the office action mail August 7, 2006).

However, the Wing reference does not teach at least a diagnostic controller that receives a first reply from the electronic device, determines at least a second diagnostic instruction based on the first reply and forwards a second instruction to the electronic device. Instead, the Wing patent describes a system where “[a] client application is ... downloaded from the server to the computer ... the results obtained from executing the client scripts or individual commands are returned to the diagnosing server ... and a disposition is returned to the browser

of the computer” (Wing, para. 0009). Therefore, the entity that receives and executes the scripts is not the same as the entity which determines and returns further instructions based on a first reply.

The office action suggests that the client application described in Wing, which the office action equates with the diagnostic controller as recited at least in claim 12, “transmits the first reply to a server and receives additional instructions (scripts), sent from the server based on the first reply, to be executed by the controller” (Office Action, pg. 5). As such Wing’s client application cannot be equated with the diagnostic controller as recited in at least claim 12. Claim 12 specifically states “a remote diagnostic controller ... further configured to receive a first reply from the electronic device, to determine at least a second diagnostic instruction based on the first reply and to forward a second instruction to the electronic device.” As noted by the office action and described in the Wing reference, the client application 400 is responsible for executing the scripts received from the “server application 224 ... The results obtained from executing the test modules and any other program components are then returned from the client application 400 to the server application 224 over logical line of communication 412” (Office Action, pg. 5, see also Wing, [0083]). As such, the client application 400, described in Wing, cannot be equated to the diagnostic controller as recited in at least claim 12, because the control application does not determine a second instruction based on the first reply and instead “transmits the first reply to a server” (Office Action, pg. 5). As such, Wing does not teach at least a diagnostic controller as recited in amended claim 12.

Further, the Swell reference also fails to teach or suggest at least a remote diagnostic controller configured to receive a first reply from the electronic device and to determine at least a second instruction based on the first reply and forward the second instruction to the electronic device. Therefore, the combination of applied references fails to teach each limitation as recited in claim 12, and thus, claim 12 is not obvious in view of the combination of the Balasubramaniam, Wing and Swell references.

Claims 13 and 14 depend from claim 12 and are not obvious over the applied references at least due to their dependency on allowable claim 12.

### **New Claims**

New claim 22 depends from claim 1, and claims 23 and 24 depend from independent claim 12. Therefore, new claims 22-24 are not anticipated by the above cited references at least due to their dependence upon allowable claims 1 and 12.

More specifically, with respect to at least claim 22 the applied references fail to teach at least generating a key based on the first content and collecting additional information regarding the first content and forwarding the key to be identified and forwarding the additional information. As such, claim 22 is not rendered obvious in view of the applied references.

Further, at least with regard to claim 23, the applied references fail to teach a remote diagnostic controller configured to analyze a first reply and determine whether one or more further diagnostic instructions are needed, and identify at least a second instruction when the one or more further diagnostic instructions are needed. Neither, of the applied references above describe or suggest at least making such a determination at the diagnostic controller, and further fails to describe or suggest making such determination. As such, at least claim 23 is not obvious over the applied references.


Moreover, with respect to claim 24, neither of the applied references teach or suggest a diagnostic controller is further configured to determine whether one or more additional scripts are needed to implement a second diagnostic instruction, and to request from over the distributed network at least a second scripts when the remote diagnostic controller determines that one or more additional scripts are needed. More specifically, the applied references fail to describe or suggest making such a determination at the diagnostic controller, and further fail to describe or suggest determining whether additional scripts are needed and requesting the additional scripts when needed. Thus, claim 24 is not obvious in view of the above applied references.



**CONCLUSION**

Applicants submit that the above amendments and remarks place the pending claims in a condition for allowance. Therefore, a Notice of Allowance is respectfully requested.

Respectfully submitted,



Steven M. Freeland  
Reg. No. 42,555  
Attorney for Applicants  
(858) 552-1311

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Address all correspondence to:  
FITCH, EVEN, TABIN & FLANNERY  
Thomas F. Lebens  
120 So. LaSalle Street, Ste. 1600  
Chicago, IL 60603  
(858) 552-1311